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UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA
OAKLAND DIVISION

CHRIS SMITH, CHERYL SMITH, KAREN
SMITHSON, FRANK ORTEGA, ALBERTO
CORNEA, MICHELLE ROGERS,
DEBORAH CLASS, AMBER JONES,
ALEXIS KEISER, LOORN SAELEE,
THOMAS PEAR and TANNAISHA
SMALLWOOD, individually and on behalf of
all other similarly situated individuals,

Plaintiffs,

v.

APPLE INC.,

Defendant.

Case No. 4:21-cv-09527 HSG

**JOINT ADMINISTRATIVE MOTION
TO VACATE CASE SCHEDULE AND
ORDER**

Dept.: Courtroom 2 – 4th Floor
Judge: Hon. Haywood S. Gilliam, Jr.

Second Am. Compl. Filed: March 17, 2023

Pursuant to Civil Local Rule 7-11, Plaintiffs in the above-captioned action *Smith v. Apple, Inc.*, No. 4:21-cv-09527 HSG (N.D. Cal.) and Defendant Apple Inc. (“Apple”), by and through their undersigned counsel, file this joint motion for administrative relief in which Plaintiffs request, and Apple does not oppose, that the Court vacate the deadlines set forth in the February 8, 2023 Amended Scheduling Order (ECF No. 78).

Plaintiffs’ Statement. Plaintiffs have filed a Motion to Modify the Case Management Order and Motion to Amend Pleadings (ECF 116, the “Motion”), which Apple opposes. The briefing on Plaintiffs’ Motion is scheduled to be completed on September 12, 2023 and the hearing on Plaintiffs’ Motion is scheduled for November 16, 2023. The current deadline for the close of fact discovery is September 8, 2023 and the Class Certification Filing deadline is September 22, 2023 – both before Plaintiffs’ Motion is set to be heard. Accordingly, Plaintiffs request that the following deadlines in the Court’s February 8, 2023 Amended Scheduling Order (ECF No. 78) be vacated pending the resolution of Plaintiffs’ Motion:

Event	Current Deadline	Proposed New Deadline
Close of Fact Discovery	September 8, 2023	Vacated pending resolution of Plaintiffs’ Motion
Class Certification Filing Deadline (including expert disclosures and expert reports)	September 22, 2023	Vacated pending resolution of Plaintiffs’ Motion
Opposition to Class Certification (including <i>Daubert</i> motions and expert reports)	November 17, 2023	Vacated pending resolution of Plaintiffs’ Motion
Reply to Class Certification (including <i>Daubert</i> motions and rebuttal expert reports)	December 15, 2023	Vacated pending resolution of Plaintiffs’ Motion
Class Certification Hearing	January 18, 2024 at 2:00 p.m.	Vacated pending resolution of Plaintiffs’ Motion

Apple’s Statement. As discussed in Apple’s Request for a Case Management Conference seeking guidance from the Court on a case schedule (ECF 118), and as Apple will

1 detail in its opposition to Plaintiffs' Motion (which, pursuant to the deadlines set by the Court,
 2 will be filed by September 5, 2023), Apple's position is that amendment of the pleadings at this
 3 late stage is past the deadline and otherwise improper, and that Plaintiffs cannot show good cause
 4 to do so. The parties had previously agreed to seek a four-month case extension to the current
 5 case schedule, before Plaintiffs informed Apple of their intent to seek leave to amend. Apple
 6 believes that the four-month case extension the parties had negotiated would be appropriate
 7 should the case remain governed by the current pleadings. However, because Plaintiffs have now
 8 filed a Motion to Amend Pleadings that is set for hearing on November 16, 2023, and because the
 9 deadlines for the close of fact discovery and Plaintiffs' class certification motion are currently set
 10 for September 8, 2023, and September 22, 2023, respectively, Apple does not oppose Plaintiffs'
 11 request to vacate the current case deadlines while Plaintiffs' Motion is pending.

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13
14
15 Dated: August 24, 2023

MORRISON & FOERSTER LLP

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17 By: /s/ Claudia M. Vesti
 18 CLAUDIA M. VETESI
 19 Attorneys for Defendant
 20 APPLE INC.

21 Dated: August 24, 2023

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23 By: /s/ Lucy E. Tufts
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ECF ATTESTATION

I, Lucy E. Tufts, am the ECF User whose ID and password are being used to file this document. In compliance with Civil Local Rule 5-1(i)(3), I hereby attest that Claudia Vertesi has concurred in this filing.

Dated: August 24, 2023

CUNNINGHAM BOUNDS, LLC

By: /s/ Lucy E. Tufts
Lucy E. Tufts

Attorneys for Plaintiffs


ORDER

The Court hereby GRANTS the Parties' Administrative Motion. Plaintiffs' unopposed request to vacate the following deadlines pending resolution of Plaintiffs' Motion to Modify Case Management Order and Amend Pleadings (ECF 116) is granted:

1. The September 8, 2023 fact discovery deadline;
2. The September 22, 2023 Class Certification filing deadline;
3. The November 17, 2023 Opposition to Class Certification (including *Daubert* motions and expert reports) filing deadline;
4. The December 15, 2023 Reply to Class Certification (including *Daubert* motions and expert reports) filing deadline; and
5. The January 18, 2024 Class Certification Hearing.

IT IS SO ORDERED.

Dated: 8/24/2023


Hon. Haywood S. Gilliam, Jr.
United States District Judge